

10/01/2003 WED 15:06 FAX 12489888363 Carlson, Gaskey & Olds

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Petts
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DUE

60,130-391
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UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:

Griffiths

Serial No.:

09/525,741

Filed:

March 14, 2000

Group Art Unit:

3619

Examiner:

Royal, P.

Title:

AIR SPRING

OFFICIAL

REQUEST TO WITHDRAW HOLDING OF ABANDONMENT

Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Dear Sir:

This application has allegedly become abandoned for failure to timely file the appeal brief after the notice of appeal was filed on 7 December 2001. During a conversation with the Examiner on 25 September 2003, Appellant first learned that the application has become abandoned. A Notice of Abandonment has yet to be mailed.

The abandonment was not proper. Appellant did file the appeal brief on 7 February 2002 via facsimile, but unintentionally transposed the last two numbers of the facsimile number from 703.872.9327 to 703.872.9372 [transmission confirmation attached hereto]. As Appellant received the attached confirmation, Appellant considers the Brief timely filed, albeit to the improper number.

Furthermore, Appellant considered the Appeal Brief properly filed as no Notice of Abandonment was received. It was only during a recent telephone conversation with the Examiner that Appellant learned that a notice of abandonment would be issued. In fact, Appellant has recently

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received a Decision Granting Status under 37 CFR 1.47 on 4 June 2003 [attached hereto]. All indications were that the Appeal Brief was timely filed.

Again, Appellant had no knowledge of the abandonment of this application until the 25 September 2003 conversation with the Examiner. Once it was learned that this application had become abandoned, Appellant promptly filed this petition. The delay from the abandonment was unintentional and Appellant was diligent in preparing the proposed petition for revival. No fees are believed necessary, as the Appeal brief was timely filed.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b)**

Alternatively, if the Appeal Brief is considered to untimely filed, please consider this Letter a PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. 1.137(b). The entire delay in filing the required reply until the filing of this petition under 37 CFR 1.137(b) was unintentional. Meritor HVS Limited ultimately owns this application.

The Commissioner is hereby authorized to charge the petition fee and any other necessary fees to Deposit Account No. 50-1482, in the name of Carlson, Gaskey & Olds, P.C.

Respectfully Submitted,
CARLSON, GASKEY & OLDS, P.C.

DAVID L. WISZ
Registration No. 46,350
Attorneys for Applicant
400 West Maple, Suite 350
Birmingham, Michigan 48009
(248) 988-8360

Dated: October 1, 2003

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CERTIFICATE OF FACSIMILE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, TC 3600, (703) 872-9327 on October 1, 2003.

Beth A Beard
Beth A Beard

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UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

David L. Wisz
400 West Maple Road
Suite 350
Birmingham, MI 48009

In re Application of
Paul John GRIFFITHS
Application No. 09/525,741
Filed: March 14, 2000
Attorney Docket No. 60130-391

Paper No. 15
COPY MAILED

JUN 04 2003

OFFICE OF PETITIONS

JUN 07 2003 DECISION GRANTING STATUS

RECEIVED UNDER 37 CFR 1.47

This is in response to the "Petition Under 37 CFR 1.47(b)", filed July 6, 2000.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of David L. Wisz establishes that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown that Meritor HVS Limited has a proprietary interest in the above-identified application with the copy of the employment agreement showing that the inventor had an obligation to assign any patent rights to Meritor HVS Limited. The petition fee has been paid on July 6, 2000. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status and the Office of Initial Patent Examination is authorized to

- (1) accept this application under Rule 1.47(b);
- (2) process this application with the inventor being Paul John Griffiths and with the indication that the application was filed by Meritor HVS, Limited as the party in interest under 35 USC §118, using the declaration filed on July 6, 2000, as noted above.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the Declaration. Notice of the filing of this application will also be published in the Official Gazette.

10/01/2003 WED 15:08 FAX 12489888363 Carlson, Gaskey & Olds

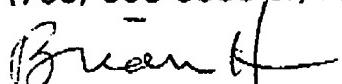
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Application No. 09/525,741

Page 2

This application is being returned to Technology Center 3600 for further examination on the merits.

Inquiries regarding this communication may be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820.



Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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COMMISSIONER FOR PATENTS
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Paul John Griffiths
3, Arrowcroft Road
Gulden Sutton
Chester, Cheshire
CH3 7EL, United Kingdom

In re Application of
Paul John Griffiths
Application No. 09/525,741
Filed: March 14, 2000
For: AIR SPRING

Dear Mr. Griffiths:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to B. Dayoan at (703) 308-3865 or, in her absence, to the undersigned at (703) 305-1820. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington D.C. area).

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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cc: David L. Wisz
400 West Maple Road
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Birmingham, MI 48009

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Creation date: 11-12-2004

Indexing Officer: JKOUAUDIO - JEAN KOUAUDIO

Team: OIPEBackFileIndexing

Dossier: 09525741

Legal Date: 05-21-2004

No.	Doccode	Number of pages
1	PETDEC	2

Total number of pages: 2

Remarks:

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